

By: Zaffirini

S.B. No. 923

A BILL TO BE ENTITLED

AN ACT

relating to open government.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 551, Government Code, is amended by adding Section 551.008 to read as follows:

Sec. 551.008. PUBLIC ACCESS TO CERTAIN MEETINGS. (a) This section applies only to an open meeting of a governmental body that:

(1) is held wholly or partly by:

(A) telephone conference call; or

(B) videoconference call;

(2) is broadcast live over the Internet; or

(3) uses a combination of those methods.

(b) The requirements prescribed by this section are in addition to other requirements of law applicable to an open meeting. Except as provided by this section, this section prevails to the extent of a conflict with another provision of law.

(c) A governmental body shall ensure that members of the public are able to listen to and, if applicable, speak at an open meeting to which this section applies by telephone.

(d) A governmental body that holds an open meeting to which this section applies shall:

(1) make the open meeting audible to the public by telephone and at each location described by Subsection (e)(1);

(2) if the meeting is broadcast live over the Internet

or held wholly or partly by videoconference call, provide public access to both audiovisual and audio-only feeds of the open meeting over the Internet; and

(3) if applicable, allow members of the public to address the governmental body as provided by Section 551.007:

(A) by telephone; and

(B) by videoconference call if the meeting is held wholly or partly by videoconference call.

(e) In addition to the notice required by this chapter, the notice of an open meeting to which this section applies must:

(1) list each physical location where a member of the public may observe and participate in the meeting, including:

(A) any location that is open to the public where a member of the governmental body intends to participate in the meeting; and

(B) any facility provided by the governmental body for a member of the public to observe or speak at the meeting;

(2) include a toll free telephone number that members of the public may use to hear and, if applicable, speak at the meeting;

(3) include access information for any audiovisual or audio-only feeds required by Subsection (d)(2); and

(4) include instructions for a member of the public to speak at the meeting:

(A) from a remote location; or

(B) while physically present at a location described by Subdivision (1).

1        (f) An open meeting to which this section applies shall be  
2 recorded. Except as otherwise provided by law, the recording shall  
3 be made available to the public not later than 24 hours after the  
4 adjourning of the meeting.

5        SECTION 2. Section 551.041, Government Code, is amended to  
6 read as follows:

7        Sec. 551.041. NOTICE OF MEETING REQUIRED. A governmental  
8 body shall give written notice of the date, hour, place, and subject  
9 of each meeting held by the governmental body. The notice must  
10 include an agenda that lists the subjects to be considered in the  
11 part of the meeting that is open to the public and the subjects to be  
12 considered in the part of the meeting that is closed to the public.

13        SECTION 3. Sections 551.128(b) and (c), Government Code,  
14 are amended to read as follows:

15        (b) Except as provided by Subsection (b-1) and subject to  
16 the requirements of this section, a governmental body may broadcast  
17 an open meeting over the Internet. A governmental body shall  
18 broadcast an open meeting over the Internet if the physical  
19 location of the meeting is not accessible to members of the public  
20 or is not large enough to accommodate all persons seeking to attend  
21 the meeting in person, including if the location has reduced  
22 capacity as the result of a public emergency or disaster.

23        (c) Except as provided by Subsection (b-2), a governmental  
24 body that broadcasts a meeting over the Internet shall establish an  
25 Internet site and provide free and open access for members of the  
26 public to the broadcast from that site. The governmental body shall  
27 provide on the Internet site the same notice of the meeting that the

1 governmental body is required to post under Subchapter C. The  
2 notice on the Internet must be posted within the time required for  
3 posting notice under Subchapter C.

4 SECTION 4. Section 552.002(a-2), Government Code, is  
5 amended to read as follows:

6 (a-2) The definition of "public information" provided by  
7 Subsection (a) applies to and includes:

8 (1) any electronic communication created,  
9 transmitted, received, or maintained on any device if the  
10 communication is in connection with the transaction of official  
11 business; and

12 (2) data dictionaries and other indicia of the type or  
13 category of information held in each field of a database.

14 SECTION 5. Section 552.003, Government Code, is amended by  
15 adding Subdivision (8) to read as follows:

16 (8) "Business day" means a day other than a:

17 (A) Saturday or Sunday;

18 (B) national holiday under Section 662.003(a);

19 or

20 (C) state holiday under Section 662.003(b).

21 SECTION 6. Subchapter B, Chapter 552, Government Code, is  
22 amended by adding Section 552.0223 to read as follows:

23 Sec. 552.0223. DATES OF BIRTH. Notwithstanding Section  
24 552.101, this chapter does not authorize a governmental body to  
25 withhold a date of birth except as:

26 (1) permitted by the federal privacy requirements  
27 adopted under the Health Insurance Portability and Accountability

1 Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160  
2 and 45 C.F.R. Part 164; or

3 (2) otherwise provided by constitutional or statutory  
4 law.

5 SECTION 7. Section 552.221, Government Code, is amended by  
6 adding Subsections (f) and (g) to read as follows:

7 (f) If the governmental body determines it has no  
8 information responsive to a request for information, the officer  
9 for public information shall notify the requestor in writing not  
10 later than the 10th business day after the date the request is  
11 received.

12 (g) If a governmental body determines the requested  
13 information is subject to a previous determination that permits or  
14 requires the governmental body to withhold the requested  
15 information, the officer for public information shall, not later  
16 than the 10th business day after the date the request is received:

17 (1) notify the requestor in writing that the  
18 information is being withheld; and

19 (2) identify in the notice the specific previous  
20 determination the governmental body is relying on to withhold the  
21 requested information.

22 SECTION 8. Subchapter E, Chapter 552, Government Code, is  
23 amended by adding Section 552.2285 to read as follows:

24 Sec. 552.2285. ELECTRONIC PUBLIC INFORMATION. (a) In this  
25 section "electronic public information" means public information  
26 that is produced and maintained in an electronic spreadsheet or  
27 database that is searchable or sortable.

1        (b) A governmental body's use of an electronic  
2 recordkeeping system may not erode the public's right of access to  
3 public information under this chapter. The contents of electronic  
4 public information, including information covered by Section  
5 552.002(a-2), is significant and not merely used as a tool for the  
6 maintenance, manipulation, or protection of property.

7        (c) If a request for public information applies to  
8 electronic public information and the requestor requests the  
9 electronic public information in a searchable or sortable format,  
10 the governmental body shall provide an electronic copy of the  
11 requested electronic public information in the searchable or  
12 sortable format requested using computer software the governmental  
13 body has in its possession. If the requestor prefers, the  
14 governmental body shall provide a copy of electronic public  
15 information in the form of a paper printout.

16        (d) A governmental body may not refuse to provide a copy of  
17 electronic public information on the grounds that exporting the  
18 information or redacting excepted information will require  
19 inputting range, search, filter, report parameters, or similar  
20 commands or instructions into the governmental body's computer  
21 system if the commands or instructions can be executed with  
22 computer software used by the governmental body in the ordinary  
23 course of business to access, support, or otherwise manage the  
24 information.

25        (e) A requestor may request that a copy of electronic public  
26 information be provided in the format in which the information is  
27 maintained by the governmental body or in a standard export format

1 such as a flat file electronic American Standard Code for  
2 Information Interchange (ASCII) if the governmental body's  
3 computer programs support exporting the information in that format.  
4 The governmental body shall provide the copy in the requested  
5 format or in another format acceptable to the requestor. The  
6 governmental body shall provide the copy on suitable electronic  
7 media.

8 (f) If electronic public information is maintained by a  
9 governmental body in a format that is:

10 (1) searchable but not sortable, the governmental body  
11 shall provide an electronic copy of the information in a searchable  
12 format that complies with this section; or

13 (2) sortable, the governmental body shall provide an  
14 electronic copy of the information in a sortable format that  
15 complies with this section.

16 (g) A governmental body shall make reasonable efforts to  
17 ensure that a contract entered into by the governmental body for the  
18 creation and maintenance of electronic public information does not  
19 impair the public's ability to inspect or copy the information or  
20 make the information more difficult for the public to inspect or  
21 copy than records maintained by the governmental body.

22 (h) This section applies to public information for which a  
23 third party is the custodian for the governmental body.

24 (i) This section does not affect the applicability to  
25 electronic public information of a confidentiality provision or  
26 other exception from required disclosure.

27 (j) Subchapter F applies to an electronic copy or paper

printout of electronic public information.

SECTION 9. Section 552.301(b), Government Code, is amended to read as follows:

(b) The governmental body must ask for the attorney general's decision and state the specific exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.

SECTION 10. The heading to Subchapter H, Chapter 552, Government Code, is amended to read as follows:

SUBCHAPTER H. CIVIL ENFORCEMENT; COMPLAINT

SECTION 11. Subchapter H, Chapter 552, Government Code, is amended by adding Section 552.328 to read as follows:

Sec. 552.328. FAILURE TO RESPOND TO REQUESTOR. (a) If a governmental body fails to respond to a requestor as required by Section 552.221, the requestor may send a written complaint to the attorney general.

(b) The complaint must include:

(1) the original request for information; and

(2) any correspondence received from the governmental body in response to the request.

(c) If the attorney general determines the governmental body improperly failed to comply with Section 552.221 in connection with a request for which a complaint is made under this section:

(1) the attorney general shall notify the governmental body in writing and require the governmental body to complete open records training not later than six months after receiving the notification;



1           (2) the governmental body may not assess costs to the  
2 requestor for producing information in response to the request; and

3           (3) if the governmental body seeks to withhold  
4 information in response to the request, the governmental body must:

5                 (A) request an attorney general decision under  
6 Section 552.301 not later than the fifth business day after the date  
7 the governmental body receives the notification under Subdivision  
8 (1); and

9                 (B) release the requested information unless  
10 there is a compelling reason to withhold the information.

11           SECTION 12. Chapter 2265, Government Code, is amended by  
12 adding Section 2265.002 to read as follows:

13           Sec. 2265.002. REQUIRED POSTING OF CERTAIN CONTRACTS. (a)  
14 In this section, "governmental body" has the meaning assigned by  
15 Section 552.003.

16           (b) Except as provided by Subsection (g), a governmental  
17 body shall post on its Internet website each contract the  
18 governmental body enters into for the purchase of goods or services  
19 from a private vendor, including each contract entered into without  
20 inviting, advertising for, or otherwise requiring competitive  
21 bidding before selection of the contractor, along with:

22                 (1) if the contract was not competitively bid, the  
23 statutory or other authority that exempts the contract from  
24 competitive bidding procedures; and

25                 (2) if the contract was competitively bid, the request  
26 for bids or proposals related to the contract.

27           (c) A governmental body shall post the contract and any

1 related documents required to be posted under Subsection (b) on its  
2 Internet website:

3 (1) not later than the 14th day after the date the  
4 contract is signed or otherwise adopted by the parties to the  
5 contract; or

6 (2) if the contract is valued at less than \$15,000, not  
7 later than the 30th day after the date the contract is signed or  
8 otherwise adopted by the parties to the contract.

9 (d) The governmental body shall maintain the posting  
10 required by Subsection (b) until the fourth anniversary of the date  
11 the contract is completed or expires.

12 (e) A governmental body shall redact from a contract posted  
13 on its Internet website under this section:

14 (1) information that is confidential under law;

15 (2) information the attorney general determines is  
16 excepted from required public disclosure under Chapter 552; and

17 (3) the social security number of any individual.

18 (f) The redaction of information under Subsection (e) does  
19 not exempt the information from the requirements of Section 552.021  
20 or 552.221.

21 (g) A governmental body is not required to post the  
22 information required by Subsection (b) for:

23 (1) a contract required to be posted under Section  
24 2261.253;

25 (2) a memorandum of understanding, interagency  
26 contract, interlocal agreement, or contract for which there is not  
27 a cost; or

1           (3) any contract if the governmental body does not  
2 maintain an Internet website.

3           SECTION 13. Subchapter B, Chapter 181, Health and Safety  
4 Code, is amended by adding Section 181.060 to read as follows:

5           Sec. 181.060. INFORMATION REGARDING COMMUNICABLE DISEASES  
6 IN CERTAIN FACILITIES. (a) In this section:

7           (1) "Communicable disease" has the meaning assigned by  
8 Section 81.003.

9           (2) "Facility" means:

10           (A) a nursing facility licensed under Chapter  
11 242;

12           (B) a continuing care facility licensed under  
13 Chapter 246; and

14           (C) an assisted living facility licensed under  
15 Chapter 247.

16           (3) "Resident" means an individual, including a  
17 patient, who resides in a facility.

18           (b) In this chapter, protected health information does not  
19 include information that identifies:

20           (1) the name or location of a facility in which  
21 residents have been diagnosed with a communicable disease; or

22           (2) the number of residents who have been diagnosed  
23 with a communicable disease in a facility.

24           (c) Unless made confidential under other law, the  
25 information described by Subsection (b) is not confidential and is  
26 subject to disclosure under Chapter 552, Government Code.

27           SECTION 14. Chapter 551, Government Code, as amended by

1 this Act, applies only to a meeting of a governmental body held on  
2 or after the effective date of this Act.

3 SECTION 15. Chapter [552](#), Government Code, as amended by  
4 this Act, applies only to a request for public information that is  
5 received by a governmental body or an officer for public  
6 information on or after the effective date of this Act.

7 SECTION 16. Not later than September 1, 2022, a  
8 governmental body shall post to its Internet website each contract  
9 to which Section 2265.002, Government Code, as added by this Act,  
10 applies that was entered into before the effective date of this Act.

11 SECTION 17. This Act takes effect September 1, 2021.